

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 178 (2005)<sup>1</sup> on local democracy in Cyprus

The Congress, bearing in mind the proposal of the Chamber of Local Authorities,

1. Considering:

a. Recommendation 96 (2001) on local democracy in Cyprus accompanied by an explanatory memorandum tabled by Ian Micallef (Malta, EPP/CD) in 2001;

b. the reply of the Minister of the Interior of the Republic of Cyprus to Recommendation 96 (2001) provided in November 2001;

c. the explanatory memorandum on local democracy in Cyprus [CPL (12) 8 Part II] tabled by Ian Micallef (Malta, EPP/CD) and Alan Lloyd (United Kingdom, SOC);

2. Asks the Committee of Ministers to take account of the following conclusions with regard to the current state of local democracy in Cyprus (including the area of the Republic of Cyprus which is not under the effective control of the government) and to invite the Cypriot authorities to implement the following recommendations:

### A. General context

3. The Congress regrets that Cyprus still remains divided since the Turkish military intervention of 1974 which left only 63% of the territory of the Republic of Cyprus under the effective control of the Government of the Republic of Cyprus;

4. The Congress regrets that the referenda on UN Secretary General Kofi Annan's plan, organised in the two Cypriot communities, failed and recalls the profound disappointment of the Parliamentary Assembly of the Council of Europe in the failure of the international community's efforts to end the division of Cyprus;

5. The Congress takes note of the Assembly's commitment that the international isolation of the Turkish Cypriots must cease and the decision to associate more closely representatives of the Turkish Cypriot community in the work of the Assembly and its committees (Resolution 1376 (2004) on Cyprus of the Parliamentary Assembly of the Council of Europe (29 April 2004));

6. The Congress recalls its Resolution 170 (2004) in which it decided to follow the same policy as the Parliamentary Assembly with regard to the representation of the Turkish Cypriot community in the work of the Congress;

### B. Particular features of local democracy in Cyprus

7. The Congress notes that a particular feature of the current situation of local authorities in Cyprus is that 9 out of 33 municipalities are displaced municipalities as a result of the occupation of 37% of the territory of the Republic of Cyprus by Turkish troops and continue to function under the provisions of the 1985 Law on Municipalities of the Republic of Cyprus;

8. It should also be underlined that the European Charter of Local Self-Government cannot be enforced in the area which is not under the control of the Government of the Republic of Cyprus;

### C. State of implementation of Recommendation 96 (2001)

9. The Congress expresses its disappointment at the fact that little legal and operational change has occurred with regard to local government in the Republic of Cyprus since the Congress adopted Recommendation 96;

10. The Congress finds that Recommendation 96 has received a mixed response from the Cypriot authorities. There is much to welcome in the shape of the new government's commitment since 2003 to a higher level of general funding for both municipalities and communities. Elsewhere, the Congress would like to invite the government to provide its own response to the recommendations of 2001, bearing in mind the comments made below:

11. In 2001, the Congress expressed the opinion that, whilst municipalities had a wide range of responsibilities, responsibility for town planning should be extended as an "own competence", with intermunicipal co-operation as necessary (paragraph 16.1.c);

12. Discussions on the review of town planning responsibilities were anticipated by the Minister in 2001. It is understood, however, that no changes have been made;

13. Recommendation: the Congress urges the Government of the Republic of Cyprus to speed up discussions on a gradual transfer of town planning responsibilities to municipalities;

14. In 2001, the Congress suggested that responsibility for other services such as school administration should also be considered for devolution to municipalities (paragraph 16.1.d);

15. There has been some discussion between the Union of Municipalities and central government on the transfer of responsibilities for schools but there has, as yet, been no change. There has been discussion, again without positive outcome, of the transfer of consumer protection responsibilities, the establishment of municipal police forces and the transfer of traffic warden responsibilities;

16. Recommendation: the Congress urges the Government of the Republic of Cyprus to reach an agreement with the Union of Municipalities on a gradual transfer of powers to municipalities within a reasonable timetable;

17. In 2001, the Congress considered that paragraphs 65 to 66 of the Municipalities Law were incompatible with the Charter in their requirement of Council of Ministers' agreement to annual budgets (paragraph 16.1.e);

18. There has been no change registered notwithstanding the commitment of the Government of the Republic of Cyprus to engage in discussions with the Union of Cyprus Municipalities according to Recommendation 96;

19. Recommendation: the Congress urges the Government of the Republic of Cyprus to review these provisions with a view to removing the requirement of the Council of Ministers' agreement to annual budgets;

20. In 2001, the Congress welcomed the increase in general grants to municipalities but expressed concern at the practice of shared funding of urban development projects (paragraphs 16.1.g and 16.1.h). Now the Congress welcomes an increase in the level of general grants to municipalities which has occurred since 2001;

21. At the same time the Congress regrets that there remains an issue with the retention of a high degree of earmarked capital funding based on central rather than local priorities and which is not based on clear pre-determined criteria and thus can be considered as discretionary;

22. Recommendation: the Congress recommends that a right balance be found between general and earmarked grants and suggests that in the short term the government favour capital funding based on local priorities;

23. In 2001, the Congress whilst generally welcoming the Communities Law, expressed a number of concerns including the need to improve the status of local representatives and to ensure their entitlement to financial allowances or compensation (paragraphs 16.2.a and 16.2.b).

24. It is understood that there has been no substantial change here, although the Minister did, in 2001, undertake to commence discussions. The direct allocations of an annual grant to communities (CY£5.5 million in 2005) should, however, be noted;

25. Recommendation: the Congress invites the Minister of the Interior to continue discussions with the Union of Communities with a view to improving the status of local representatives, including entitlement to financial compensation;

26. In 2001, the Congress requested the removal of paragraph 174.4 of the Communities Law which enabled the government, under certain circumstances, to suspend elections (paragraph 16.2.c). It is understood that this change has not been made;

27. Recommendation: the Congress renews its request and urges the Cypriot government to remove paragraph 174.4 of the Communities Law;

28. In 2001, the Congress expressed concern about a range of controls over communities exercisable by district

officers (paragraphs 16.2.d.i to vi and 16.e to g). Similarly, it is understood that no adjustments have been made;

29. Recommendation: the Congress renews its recommendation that control over communities exercisable by district officers be reduced in line with Recommendation 96 (2004);

30. In 2001, the Congress considered that, because of the existence of small municipalities and even smaller communities, mandatory schemes of co-operation between local authorities should be developed (paragraph 18);

31. This was an issue which the Minister stated in 2001 was widely recognised as one of the most urgent developments that will allow the building and strengthening of the capacity of local authorities to expand their responsibilities and, more importantly, to fulfil these responsibilities. However, the government will need the explicit support of the Union of Municipalities and the Union of Communities in order to ensure that the adoption of mandatory co-operation schemes will not be perceived by local authorities as a top-down, hostile move;

32. It is understood that paragraph 86 of the Municipalities Law was amended in 2003 to improve the framework of intermunicipal co-operation which has produced some examples of co-operation, especially in relation to sewerage boards in urban areas;

33. It is thought, however, that there remains substantial scope for co-operation schemes, especially in rural areas;

34. Recommendation: the Congress calls on the Government of the Republic of Cyprus and representatives of local authorities to continue developing intermunicipal and intercommunal co-operation schemes;

#### **D. Local democracy in the area of the Republic of Cyprus which is not under the effective control of the Government of Cyprus**

35. The Congress recalls that, according to UN Security Council Resolution 550 (1984), "elections" held in the occupied part of the Republic of Cyprus are considered as illegal and invalid;

36. The Congress underlines again that, in its opinion, the European Charter of Local Self-Government cannot be enforced in the area which is not under the control of the Government of the Republic of Cyprus;

37. With this in mind the Congress, however, identified a number of problems regarding functioning of local communities in the area which is not under the effective control of the Government of Cyprus;

38. In the first place, the current practices leave the rural population without proper provision for local self-government and, therefore, create a situation of non-compliance with the Charter;

39. Secondly, it seems likely that, even within the local communities themselves, there is less than complete compliance in practice with the terms of the existing regulations, and, therefore, with the terms of the Charter;

40. The Congress therefore concludes that a majority of local communities have a small population base and, despite the formal provisions, are confined to a limited range of functions and are under-resourced in terms of both finance and personnel. These weaknesses of local communities appear to be widely acknowledged across the political parties in the north of Cyprus, with an apparent consensus emerging that structural reform is required;

41. The Congress, basing itself on the relevant judgments of the European Court of Human Rights, considers that the Government of the Republic of Turkey, which exercises effective control over the occupied areas, remains responsible for the overall situation in the said area;

42. The Congress will remain alert to the issue;

#### **E. Co-operation between the two communities**

43. The general observation can be made that in the interests of local democracy and the prospect for future co-operation, both individual and collective, between the

Greek Cypriot and the Turkish Cypriot communities should be strongly encouraged and improved;

44. The Congress invites:

*a.* the Committee of Ministers to transmit this recommendation to the Government of Cyprus and to invite them to implement it;

*b.* the Government of Cyprus to consider the recommendations set out by the Congress and to present plans for their implementation at one of the forthcoming sessions of the Congress;

*c.* the Parliamentary Assembly of the Council of Europe to take account of the Congress' conclusions on the state of local democracy in the Republic of Cyprus.

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1. Debated and approved by the Chamber of Local Authorities on 8 November 2005 and adopted by the Standing Committee of the Congress on 9 November 2005 (see Document CPL (12) 8, draft recommendation presented by Dr I. Micallef (Malta, L, EPP/CD) and A. Lloyd (United Kingdom, L, SOC), rapporteurs).